

CORPORATION TAX ACT 2010

EXPLANATORY NOTES

INTRODUCTION

Part 15: Transactions in securities

Overview

2254. This Part rewrites sections 703 to 705 and 707 to 709 of ICTA for the purposes of corporation tax.
2255. Sections 703 to 709 of ICTA were enacted as a wide-ranging anti-avoidance rule which would enable the Crown to counter all manner of devices to avoid tax involving transactions in shares or other securities or the manipulation of a company's assets or both, and to forestall the creation of such devices in future.
2256. Chapter 1 of Part 13 of ITA rewrote sections 703 to 709 of ICTA for the purposes of income tax, and paragraphs 154 to 161 of Schedule 1 to ITA consequentially amended those sections to apply solely for the purposes of corporation tax.
2257. This Part replicates Chapter 1 of Part 13 of ITA as far as possible. It differs from Chapter 1 of Part 13 of ITA in two respects.
2258. First, where this Part rewrites provisions of ICTA which are corporation tax specific there are no corresponding provisions in ITA. These are noted in detail in the commentary on section 735. In addition there are some provisions in ITA which are not reflected in this Part. Sections 703 to 709 of ICTA, as amended, do not include any provisions corresponding to sections 699 and 712 of ITA (limit on amount assessed in section 689 and 690 cases; application of Chapter where individual within section 684 dies), because these sections are income tax specific; accordingly, no such provisions appear in this Part.
2259. Second, where necessary this Part uses terminology specific to corporation tax where Chapter 1 of Part 13 of ITA uses terminology specific to income tax. For example, since persons other than companies are not liable to corporation tax, this Part uses the word "company" to refer to the taxpayer where Chapter 1 of Part 13 of ITA uses the word "person".

Sections 731 to 734: Overview of Part; meaning of "corporation tax advantage"; company liable to counteraction of corporation tax advantages; exception where no tax avoidance object shown

2260. These sections introduce the Part and provide definitions of "corporation tax advantage" and the company liable to counteraction. They are based on sections 703(1) and (2) and 709(1) and (2A) of ICTA.
2261. Except as noted in the Overview above, these sections replicate exactly sections 682 to 685 of ITA.

Section 735: Abnormal dividends used for exemptions or reliefs (circumstance A)

2262. This section is the first in a sequence of sections in which the sets of circumstances in section 704 of ICTA are laid out and expanded in five separate sections. It is based on sections 704 A and 709(3) of ICTA.
2263. This section is similar to section 686 of ITA. The main change is in *subsection (4)* where the purpose stated differs from those listed in section 686(4) of ITA to cater for the application of the section to companies.
2264. **Section 704** A(a) to (c) of ICTA are no longer capable of having any practical effect for corporation tax purposes and are therefore not rewritten.
2265. To avoid confusion, this sequence of sections has been given the same titles as the corresponding provisions of Chapter 1 of Part 13 of ITA. There is accordingly no mention of “circumstance B”, because section 704 B of ICTA was repealed by FA 2008.

Sections 736 to 738: Receipt of consideration representing company’s assets, future receipts or trading stock (circumstance C); receipt of consideration in connection with relevant company distribution (circumstance D); receipt of assets of relevant company (circumstance E)

2266. These sections are based on sections 704 C, D and E and 709 of ICTA.
2267. Except as noted in the Overview above, these sections replicate exactly sections 688 to 690 of ITA.

Section 739: Meaning of “relevant company” in sections 737 and 738

2268. This section defines “relevant company” in the same way as section 691 of ITA. It is based on section 704 D of ICTA.

Section 740: Abnormal dividends: general

2269. This section is the first of three interpretative sections about abnormal dividends. It is based on section 709(4) of ICTA. This section and section 692 of ITA are identical.
2270. This section replaces the reference to “the Board” with a reference to “an officer of Revenue and Customs”. See *Change 5* in Annex 1.
2271. HMRC internal procedures restrict the exercise of the Commissioners for HMRC’s functions under Chapter 1 of Part 17 of ICTA to a small group of specialist officers. This change in the law has no effect on this practice.

Sections 741 and 742: Abnormal dividends: the excessive return condition and the excessive accrual condition

2272. These interpretative sections are based on section 709(4) to (6) of ICTA.
2273. Except as noted in the Overview above, these sections replicate exactly sections 693 and 694 of ITA.

Sections 743 to 746: Preliminary notification that section 733 may apply, opposed notifications and counteraction notices

2274. These sections are concerned with the procedure for counteraction of corporation tax advantages. They are based on sections 703(3), (9), (10) and (12) of ICTA. Apart from differences of the kind described in the Overview, they replicate sections 695 to 698 and 700 of ITA.
2275. **Sections 743 to 746** replace references to “the Board” with references to “an officer of Revenue and Customs”. See *Change 5* in Annex 1.

*These notes refer to the Corporation Tax Act 2010
(c.4) which received Royal Assent on 3 March 2010*

Sections 747 to 751: Timing of assessments in section 738 cases; application for clearance of transactions; effect of clearance notification under section 748; appeals against counteraction notices; interpretation of Part

2276. These sections make a special rule for the timing of assessments in section 738 cases, provide a clearance procedure and deal with appeals against counteraction notices, and define certain expressions. They are based on sections 704 E(2) and (3), 705(1) and (5), 707 and 709(2) of ICTA.
2277. Except as noted in the Overview above, these sections replicate exactly sections 700 to 702, 705 and 713 of ITA.